



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,593	01/25/2005	Knud Erik Kristian Jensen Moller	MOLLERS	5640

1444 7590 12/31/2007
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER

CAMERON, ERMA C

ART UNIT	PAPER NUMBER
----------	--------------

1792

MAIL DATE	DELIVERY MODE
-----------	---------------

12/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/522,593

Applicant(s)

JENSEN MOLLER, KNUD ERIK KRISTIAN

Examiner

/Erma Cameron/

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8 and 10-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 4 and 9 are objected to because they are not dependent on another claim, nor are they independent claims. Accordingly, claims 4 and 9 not been further treated on the merits, as the scope of the claims is unclear.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3, 5-8 and 10-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a) Claims 1, 10, 15, 21 and 23, lines 4-6: there is no antecedent basis for "the components".
- b) Claims 1, 10, 15, 21 and 23: it is unclear if "the particles of polyolefin wax" are suspended in a liquid phase or if only the mixture is suspended in a liquid phase.

c) Claims 1, 10, 15, 21 and 23: it is unclear if "oxidized" modifies both polypropylene and polyethylene or just polyethylene.

d) Claims 1, 10, 15, 21 and 23: it is not clear why there is an "and" between "oxidized polyethylene" and "polypropylene waxes". Is the "and" supposed to indicate that both are required?

e) Claim 1: it is not clear if the claim is a composition claim or a method claim.

f) Claims 2, 3, 6, 7: "preferably" and "in particular" are vague and indefinite, in that the boundaries of what is being claimed are uncertain.

g) Claim 3: "any of claims 1" does not make sense.

h) Claim 8: "high-density" is not defined and is therefore vague.

i) Claims 14, 19 and 20: "obtainable" is vague in that it is not clear if the article is actually obtained, or if obtaining the article is merely possible.

j) Claims 26 and 27, last line of each: there is no antecedent basis for "said method of coating".

k) Claim 2: should be put into proper Markush terminology – selected from the group consisting of.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 5-6, 10-11, 13-16, 18-21, 23-24, 28 and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Perlman et al (6033736).

‘736 teaches applying, by spraying or other means, an aqueous wax emulsion comprising polyethylene wax of 0.1-10 um particle size to buildings, concrete or sheets, and then melting to fuse or coalesce the particles (2:15-10:32).

6. Claims 1-2, 5, 8, 10-11, 13-16, 18-21, 23-24, 28 and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kubo et al (4499225).

‘225 teaches applying particulate polyethylene or polypropylene wax, including HDPE (2:12-18), and including oxidized PE, in a water dispersion, to surfaces of automobiles, by spraying or other means, and baked to give a fused wax coating (1:56-4:62)

Claim Rejections - 35 USC § 103.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 7, 12, 17, 22, 25-27 and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Perlman et al (6033736).

'736 is applied here for the reasons given above.

'736 teaches that the emulsion contains 40-98% by wt of water and the rest particulate wax (2:37-67), which overlaps with applicant's claimed composition of claim 3.

'736 teaches that the waxes have MP's in excess of 50 degrees C (3:22-30), which overlaps with applicant's claimed ranges in claim 7.

'736 fails to teach the ml/m² of claims 12 and 17, but it would have been obvious to optimize the coating amount because the amount of coating is known to control the amount of protection a coating imparts to a surface.

'736 teaches that the composition is itself adhesive, and a multilayer surface may be applied, including a topcoat or overcoat (27), thus meeting the limitations of claims 22, 25-27 and 29.

9. Claims 3, 6, 7, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al (4499225).

'225 is applied for the reasons given above.

'225 teaches a solid content of 5-70 wt % (3:56-62), which overlaps with the composition claimed in claim 3.

'225 teaches a particle size of 0.05-150 um, which overlaps with the size claimed by applicant in claim 6.

'225 does not teach the MP of the waxes, but does teach that the waxes melt at 200 degrees C, which implies that their MP's are somewhat lower than this (see Examples)

'225 fails to teach the ml/m² of claims 12 and 17, but it would have been obvious to optimize the coating amount because the amount of coating is known to control the amount of protection a coating imparts to a surface.

Specification

10. The disclosure is objected to because of the following informalities: 38:8 - there is a serial number missing.

Appropriate correction is required.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Erma Cameron/ whose telephone number is 571-272-1416. The examiner can normally be reached on 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erma Cameron/
Primary Examiner
Art Unit 1792

December 26, 2007